DR. MURLI MANOHAR JOSHI: But, do you know the number? ...*(Interruptions)*... This is not the answer...*(Interruptions)*... She is a very able Minister, much abler than the Cabinet Minister, let me say. So, do you know the number of vacancies? My question is: Is there any data about it? How many vacancies are there in higher education in different sectors, in State Universities, in Central Universities, in Technical institutions, and how are you going to fill up those vacancies? We need not wait for the Demands for Grants for that purpose. Is there any scheme? And if you have demanded any amount, you can tell us the amount. What will they give, we will know only on 28th of February? What is your demand?

SHRIMATI D. PURANDESWARI: Sir, I would appreciate if the hon. Member gives a notice for this.

*27. [The questioner (Shri Kalraj Mishra) was absent. For answer *vide* page 36.]

*28. [The questioner (Shri Pramod Mahajan) was absent. For answer *vide* page 37.]

Extension of time limit for filing written statements in Civil disputes

*29. SHRIMATI MOHSINA KIDWAI:†
SHRI VIJAY J. DARDA:

Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether it is a fact that the Supreme Court has ruled that courts can extend the time limit of ninety days fixed under the Code of Civil Procedure for filing a written statement in civil disputes;

(b) if so, whether it would not lead to further raising the huge arrears of civil cases in the country; and

(c) the number of civil cases pending in District and High Courts as on the 31st December, 2005 and details of Government's plan to liquidate these arrears?

THE MINISTER OF LAW AND JUSTICE (SHRI H.R. BHARDWAJ): (a) to (c) A Statement is laid on the Table of the House.

† The question was actually asked on the floor of the House by Shrimati Mohsina Kidwai.

Statement

Extension of time limit for filing written statement in civil disputes

The Supreme Court in Kailash versus Nanhku and Others (2005) 4 SCC 480, Vol. Ill ruled that Order 8 rule 1, proviso as amended by the Code of Civil Procedure (Amendment) Act, 2002 is directory in character and not mandatory. The court further held that though these provisions cast an obligation on defendant to file a written statement within the time prescribed therein, the provisions do not deal with nor specifically take away the power of the court to take a written statement on record, though filed beyond the time as provided for therein. In addition, section 5 of the Limitation Act, 1963 enables the Civil Courts to extend the time limit provided under the Code of Civil Procedure for filing a suit, written statement, application or appeal if the person was prevented by sufficient reason from filing the same within the time prescribed. The Supreme Court has held that it is a settled situation in law, the civil courts have power to extend the time limit in the cases where the applicant or appellant was prevented by sufficient cause to bring his application or appeal or written statement within the prescribed time.

No Direct link between the extension of time and arrears

There is no direct link between extension of time by the Civil Court by virtue of Section 5 of the Limitation Act, 1963 and increase in the arrears of civil cases. On the other hand, when a civil court refuses to extend the time limit prescribed for filing written statement, application or appeal, the aggrieved person approaches the appellate court against such an order of refusal which adds to the arrears of the civil cases. It seems highly just and proper for the civil courts to extend the time limit a case when the person was prevented by sufficient reason from filing his case within the prescribed time.

Measures taken by Government to liquidate the arrears

In High Court 34.24 lakh cases are pending and 254.06 lakh cases are pending in the District and Subordinate Courts as on 31.12.2005. In order to reduce pendency of cases government has initiated a number of measures which include timely filing the vacancies of judges, increasing the judge strength, grouping of cases, involving common questions of law, constitution of specialized benches, organizing Lok Adalats at regular

intervals encouraging alternative modes of dispute resolution like negotiation, mediation and arbitration and setting up of special tribunals like Central Administrative Tribunals, State Administrative Tribunals, Income Tax Appellate Tribunals, Family Courts and Labour Courts. Further it has been decided to focus on reform in a few core areas which include computerization of judiciary, disposal through fast track courts, development of physical infrastructure and evolution of strategies to cope with massive governance related inadequacies in judicial process through studies, pilots and reform projects. The Government has extended the term of existing 1562 Fast Track Courts for another five years i.e. upto 31.3.2010 for clearing huge pendency of cases at District level.

श्रीमती मोहसिना किदवई : सभापति जी, माननीय मंत्री जी ने अपने जवाब में जो कहा है, यह तो एक बहुत आम शोहरा है कि जो पेंडिंग केसेस है, जैसा आपने अपने स्टेटमेंट में कहा है, 34.24 lakh cases are pending in the High Courts and 254.06 lakh cases are pending in the district and subordinate courts as on 31st December, 2005. उसके बाद मंत्री जी ने अपने जवाब में तमाम उपाय बताए हैं कि ये जो पेंडिंग केसेस हैं, इनको जल्द से जल्द निपटाने के लिए स्पेशल कोर्ट और जितने भी उपाय उन्होंने बताए हैं, मैं उनको दोहराना नही चाहती, लेकिन इन तमाम चीजों के बावजूद भी, जिसमें मिनिस्टरी के एफर्टस हैं, दिसंबर, 2005 को जो केसेस की पेंडेंसी है, वह बहुत बडी संख्या में है। इसका मतलब यह हैं कि आपने जो उपाय किए है वे इन तमाम केसेस को निपटाने के लिए नाकाफी है। More than 34 lakh cases are pending in the High Courts and more than 254.6 lakh cases are pending in the lower courts. तो यह जो संख्या है, इससे कभी आप इस बात का भी ख्याल करें कि आज लाखों लोग इन मुकदमों में फंसे हुए हैं और जिनकी जिंदगी जेलों में कट रही है। मैं माननीय मंत्री जी से यह जानना चाहती हूं कि ये जो उपाय आपने किए है, चूंकि ये नाकाफी हैं, तो आपके पास क्या ऐसा पूरा इन्फ्रास्ट्रक्चर है, जिससे इतना ह्यूज प्रोग्राम जो आपका है, जो लाखों लोग जेलों में बंद है, उनको जल्द से जल्द न्याय मिल सके ? इसके लिए मैं समझती हूं कि ये उपाय नाकाफी है। इन उपायों के अलावा मंत्री जी, आप क्या करने जा रहे हैं, जिससे जल्द से जल्द इन केसेस को निपटाया जा सके।

محترمہ محسنہ قدوائی: سبھاپتی جی، مانئے منتری جی نے اپنے جواب میں جوکہا ہے، یہ تو ایک بہت عام شہرہ ہے کہ جو پینڈنگ کیسیز ہیں، جیسا آپ نے اپنے اسٹیٹمینٹ میں کہا ہے

34.24 lakh cases are pending in the High Course and 254.06 lakh cases are pending in the district in and subordinate courts as on 31st December , 2005.

اس کے بعد منتری جی اپنے جواب میں تمام اپائے بتائے ہیں یہ جو پینڈنگ کیسیز ہیں، ان کو جلد سے جلد نپٹانے کے لئے اسپیشل کورٹ اور جتنے بھی اپائے

انہوں نے بتائے ہیں، میں ان کو دوہرانا نہیں چاہتی، لیکن ان تمام چیزوں کے باوجود بھی، جس میں منسٹری کے ایفرٹس ہیں، دسمبر، 2005 کو جو کیسیز کی پینڈینسی ہے، وہ بہت بڑی تعداد میں ہے۔ اس کا مطلب یہ ہے کہ آپ نے جو اپائے کئے ہیں، وہ ان تمام کیسیز کو نپٹانے کے لئے ناکافی ہے۔ More than 34 lakh cases are pending in the High Courts and more than 254.6 lakh cases are pending in the lower courts. تو یہ جو تعداد ہے، اس سے بھی آپ اس کا بھی خیال کریں کہ آج لاکھوں لوگ ان مقدموں میں پھنسے ہوئے ہیں اور جن کی زندگی جیلوں میں کٹ رہی ہے۔ میں مانئے منتری جی سے یہ جاننا چاہتی ہوں کہ کہ جو اپائے آپ نے کئے ہیں، چونکہ کہ ناکافی ہیں، تو آپ کے پاس کیا ایسا دوسرا انفراسٹرکچر ہے، جس سے اتنا ہیوگ پروگرام جو آپ کا ہے، جو لاکھوں لوگ جیلوں میں بند ہے، ان کو جلد سے جلد نیائے مل سکے؟ اس کے لئے میں سمجھتی ہو کہ یہ اپائے ناکافی ہے، ان اپاؤں کے علاوہ منتری جی، آپ کیا کرنے جا رہے ہیں، جس سے جلد سے جلد ان کیسیز کو نپٹایا جا سکے۔

SHRI H.R. BHARDWAJ: Sir, there is no doubt that we have been grappling with the problem of arrears for a long time. But it does not mean that no steps have been taken. Sir, you will remember that we introduced the Fast Track System at sessions level and the pendency has come down quite a lot in sessions level. We are now planning another step, that is, to give gram nyayalas for rural courts, and we had provided Rs. 1,000/- crores to make the judicial infrastructure modern. We are increasing the judicial manpower at various levels. It is a vast country where there are courts located in the States as well as in the Centre. The Supreme Court has already shown results by modernization of infrastructure. So, this is a process which will take a little time. But, I can assure this House that during the next 4-5 years, the country will have the most modern courts by the introduction of the information technology and increasing the judicial manpower. This Government has devoted the highest priority to judicial infrastructure as well as the judicial manpower.

MR. CHAIRMAN: And we should wait for 4-5 years!

SHRI H.R. BHARDWAJ: We will have to.

श्रीमती मोहसिना किदवई : सर, अपने दूसरे सप्लिमेंट्री के रूप में मैं मंत्री महोदय से जानना चाहती हूं।

محترمہ محسنہ قدوائی: سر اپنے دوسرے سپلیمنٹ کے روپ میں، میں منتری مہودے سے جاننا چاہتی ہوں

† Transliteration in Urdu Script

During the Tenth Plan, 2002-07, the allocation is Rs. 700 crores, which is 0.078 per cent of the total Plan outlay of Rs. 8,93,183 crores. The experience shows that this meagre allocation of 0.071 per cent and 0.078 per cent given by the Planning Commission in the Ninth Plan and the Tenth Plan, respectively, is inadequate and coupled with the formulation of a Centrally-sponsored Scheme with a condition that the utilisation of the Central grant is permissible only if a matching grant is provided by the State; it is unfortunate. I want to know from the hon. Minister what is the contribution of the States. Are they cooperating with you by contributing the fund which they have to provide?

SHRI H.R. BHARDWAJ: Sir, there are two kinds of Centrally-sponsored schemes from here. One is for judicial infrastructure, buildings; it is for both court buildings and residential houses. There, it is 50:50, and the States have always cooperated. That has gone in for modernisation of court buildings, and it has taken place in a big way after independence. Second is computerisation. We are providing hundred per cent assistance to the States, and that also is being done in phased programmes. Firstly, the Supreme Court was computerised. Secondly, the High Courts are computerised. Now, it is the metropolitan towns that are going to be computerised and, then, *taluka* and district courts, So, it is a phased programme.

श्री सभापति : लॉ मिनिस्ट्री का कम्प्यूटराइजेशन नही हुआ है अभी तक ।

SHRI H.R. BHARDWAJ: Sir, the entire laws which are passed by the Parliament are all computerised; no more on the manuals. We are steadily going towards total computerisation of courts in the next two, three years.

So far as the allocation of funds is concerned, for me, the money is required only for the Supreme Court and the Delhi High Court. The States take care of the High Court and the subordinate judiciary. Every year, we are calling a conference of the Chief Ministers and the Chief Justices; the Prime Minister personally takes care of all this, and the Centre has provided all funds that are required.

MR. CHAIRMAN: Shri Vijay Darda. He is not here. Shri Ravi Shankar Prasad. ...*(Interruptions)*...

SHRI RAJEEV SHUKLA: Sir, Q. No. 34 is of the same nature. It can be taken together. ...*(Interruptions)*...

SHRI RAVI SHANKAR PRASAD: The Chairman has given me the floor; the hon. Member will appreciate it. He has given me the floor.

Sir, in part (c) of your reply, the hon. Minister has said that 34.24 lakh cases are pending in the High Courts and 2 crore 54 lakh cases are pending in the District and Subordinate Courts. I am given to understand by the hon. Law Minister that majority of these cases are criminal cases. Fast Track Court has been a good experiment, but completely reducing this pendency would intake heavy infrastructure and disposal of criminal cases; that is very important. Therefore, my query is: Does the Government propose to extend Fast Track Court institution in some other areas also during session trials? This is part (a). And part (b) is: What other steps the Government are contemplating to reduce this vast pilling of criminal cases? You will appreciate, hon. Law Minister. .....

श्री सभापति : ठीक है, ठीक है, क्वेश्चन करिए ।

SHRI RAVI SHANKAR PRASAD:..... that criminal justice can be given only by the regular courts, and not by the ADR. I hope you will appreciate that.

SHRI H.R. BHARDWAJ: Sir, the hon. Member has raised a very pertinent question. These crores of cases are of a very petty nature, spread out in various parts of country, over which the Central Government does not have any control, and there were no data, earlier available in the country, regarding where and what kind of cases are pending. With the introduction of a new technology now, we know that there are 34,000 cases of summary trial, which are pending. We are introducing Special Magistrates. We have written to the Chief Ministers and the Chief Justices. And, then, there are cases of a compoundable nature. We are introducing the *Gram Nayalayas,* as I said, and this is another Fast Track Court which the Centre will introduce in the States; the Law Ministers have agreed. So, we are already making efforts to take some of the responsibilities of the States. The main thing is the States have always raised a point that they have no money to expand the infrastructure, and we have to cooperate with them. The Prime Minister has been very kind to give me money for this, and the President has announced, in his Address to both the Houses, that we will institute local courts for disposal of these petty cases. There will be Magisterial Courts; there will not be ADR Courts, and that will be augmenting the Fast Track Courts as a matter

of fact. Sir, I am hastened to add here that these courts will go to the doorsteps of the poor people so that justice is dispensed with at their doorsteps.

SHRI N. JOTHI: Sir, the *hon.* Minister has stated in the statement that pendency will be reduced by taking up timely action for filling up of vacancies of Judges. The names of 17 Judges, which form 40 per cent of the strength of the Madras High Court, were proposed about a year ago. They were appointed only after 11 months delay and with the Supreme Court's intervention. The Chief Justice at the High Court in Jharkhand from the Tamil Nadu region was appointed after a delay of eight months. These delays were caused knowingly after you assumed office, knowingly due to political pressure from a political party. *(Interruptions)*... The Supreme Court intervened and passed strictures on this. (*Interruptions)*... Can you assure this House, at least, in future, you will not buckle under political pressures, and discharge your duties in a correct manner in the betterment of litigants of India? *(Interruptions)*... Sir, you know it very well. We have discussed it. You know it very well.

SHRI H.R. BHARDWAJ: Sir, he is a very senior advocate. Let him not be excited. He knows that we have to make consultations with various institutions in the State. When there is a local conflict, it is not because of me. Whenever we consult the State authorities, the Chief Ministers and the Governors, they have diverse views. *(Interruptions)*...

SHRI N. JOTHI: They have not caused the delay. Your Ministry and your political colleague caused the delay *(Interruptions)*...

MR. CHAIRMAN: Please, let him reply. *(Interruptions)*... Please take your seat. Don't disturb. *(Interruptions)*...

SHRI N. JOTHI: Your Union Minister has caused the delay.

SHRI H.R. BHARDWAJ: Sir, I don't get excited like this. I am replying, yes, there was some delay. But the appointments have been made long ago. Why is he raising this question now? Let him talk of the future.

श्री जय प्रकाश अग्रवाल : माननीय सभापति जी, मैं मंत्री महोदय से यह जानना चाहता हूं कि कुछ केसेज़ में कई बार एक ही महीने के अन्दर चार – चार या छः – छः तारीखें लगाकर उनके

फैसले कर दिए जाते है, जजमेंट सुना दिया जाता है, जैसे अभी दिल्ली में डिमॉलिशन के मामले में हाई कोर्ट और सुप्रीम कोर्ट ने जल्दी – जल्दी फैसले सुना दिए और ऑर्डर पास कर दिए कि मकानों को तोड़ा जाए। दूसरी तरफ कई केसेज़ कितने – कितने वर्ष तक पड़े रहते हैं और दो – दो साल बाद तक की तारीखें दे दी जाती है। मैं यह जानना चाहता हूं कि क्या कोई ऐसा फोरम है जहां मिनिस्ट्री ऐसी प्रोसीजरल डिफिकल्टीज़ को टेक – अप करती हो और उनके साथ बात – चीत करके उन्हें सुलझाने की कोशिश करती हो, ताकि लोगों को इससे नुकसान न हो।

SHRI H.R. BHARDWAJ: The Government provides the courts and the courts are independent in their functioning.

SHRIMATI BRINDA KARAT: Sir, my question relates to the pending cases. The Minister has stated that many of them are petty cases. But if you relate these pending cases to the figures given by the Home Ministry as far as crimes against women are concerned, you will find that a very large number of the cases are sexual assaults, including sexual assault on minors, and they are pending for years together. There are cases of sexual assault on minors which go on for ten years. So, in the general context, what I would like to know from the hon. Minister is this. Can he give an assurance that, at least, in these cases concerning crime against women they will make special provisions for time-bound procedures? Otherwise, this pendency means that there can be no justice. So, at least, in child sexual abuse cases, let him give an assurance.

MR. CHAIRMAN: Your question is over.

SHRI H.R. BHARDWAJ: Sir, I am very much conscious of this problem. The hon. Member will agree that we have met several times to devise ways and means to see that such cases are not only dealt with quickly but also firmly. Sir, you must have read that how courts have been concerned about such happenings in your own State of Rajasthan and they have delivered judgements within two or three weeks of the occurrence of such cases. Last year, we had dealt with this problem of gender bias and crime against women, and steps are being taken, both in the Home Ministry and in the Law Ministry.

SHRIMATI BRINDA KARAT: Sir, please give an assurance on time-bound procedures in these cases.

SHRI H.R. BHARDWAJ: I can say only this, Madam, that your feelings have already been noted and we are working on them.

*30. [The questioner (Shri B.K. Hariprasad) was absent. For answer vide page 37.]

Funds under SSA

†*31. SHRI KRIPAL PARMAR: Will the Minister of HUMAN RESOURCE DEVELOPMENT be pleased to state:

(a) the funds allocated during the last two years udner 'Sarva Shiksha Abhiyan', State-wise;

(b) whether the said scheme is proving unsuccessful due to non-utilisation of funds by the States;

(c) if so, the States which have not utilised the funds;

(d) whether the same is due to absence of proper arrangement for monitoring the utilization of funds provided under the scheme; and

(e) if so, the efforts made for proper monitoring of the scheme?

THE MINISTER OF STATE IN THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT (SHRIMATI D. PURANDESWARI): (a) to (e) A Statement showing amounts available for SSA with the States/UTs and expenditure incurred by each State and UT during the years 2003-04 and 2004-05 is enclosed (See below). The utilization of funds available under SSA and the progress against physical targets in the past two years has been satisfactory.

The States of Bihar, Arunachal Pradesh, Meghalaya, Sikkim and Delhi had a comparatively low rate of overall expenditure during 2004-05.

The Government of India has put in place a rigorous system of quarterly monitoring of the Sarva Shiksha Abhiyan, which *inter-alia* covers financial management, school infrastructure, alternative schooling, girls education, quality of education and inclusive education. In addition, a system of annual computerized educational statistics is functional. Independent reviews and surveys are also commissioned.

† Original notice of the question was received in Hindi.